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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Masahiro OSHIO

Group Art Unit: 2834

Application No.: 10/731,004

Examiner: T. DOUGHERTY

Filed: December 10, 2003

Docket No.: 117780

For: SURFACE ACOUSTIC WAVE DEVICE, METHOD OF MANUFACTURING THE SAME, AND ELECTRONIC APPARATUS

REQUEST FOR RECONSIDERATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the January 4, 2006 Office Action, reconsideration of the application is respectfully requested in light of the following remarks.

Claims 1-4 are pending in this application. Claims 5-9 are withdrawn as non-elected claims.

The Office Action rejects claims 1, 2 and 4 under 35 U.S.C. §102(e) or §103(a) over U.S. Patent 6,717,327 to Kando et al.; rejects claims 1, 2 and 4 under 35 U.S.C. §102(b) or §103(a) over an article of Yong et al.; rejects claims 1 and 4 under 35 U.S.C. §102(e) or §103(a) over U.S. Patent 6,710,509 to Kadota; and rejects claim 3 under 35 U.S.C. §103(a) over Kando, Yong or Kadota, further in view of U.S. Patent 6,437,479 to Miura et al. These rejections are respectfully traversed.

The Office Action recognized that none of Kando, Yong or Kadota discloses a standardized thickness t of a substrate such that it is set to a range specified in claim 1.

However, the Office Action asserts that the wavelength recited in claim 1 is a variable which is applied to the devices of Kando, Yong or Kadota. The Office Action further asserts that consequently, the range in claim 1 may be met by Kando, Yong or Kadota depending on the applied value of wavelength.

The Office Action appears to be asserting that Kando, Yong and Kadota inherently disclose the range recited in claim 1. However, the Office Action does not provide a basis in fact and/or technical reasoning to reasonably support a determination that the alleged inherent characteristic necessarily flows from the teachings of the applied references. Thus, the Office Action does not satisfy the requirements set forth in MPEP §2112(IV) for establishing inherency.

For at least the above reasons, withdrawal of the rejection of claims 1-4 under 35 U.S.C. §102(e), §102(b), and §103(a) is respectfully requested.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-4 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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Date: February 16, 2006

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